

1 THE HONORABLE PAUL B. SNYDER  
2 CHAPTER 13  
3 TACOMA, WA  
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10 IN THE UNITED STATES BANKRUPTCY COURT FOR  
11 THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

12 In Re: ) Bankruptcy Case No. 10-45662-PBS  
13 )  
14 SHANNON and NICOLE )  
15 VANDERFORD, ) Adversary No.  
16 )  
17 ) COMPLAINT FOR TURNOVER OR  
18 Debtors. ) ESTATE PROPERTY  
19 MICHAEL G. MALAIER, Chapter 13 )  
20 Trustee for the Estate of )  
21 Vanderford, )  
22 )  
23 Plaintiff, )  
24 )  
25 v. )  
26 )  
27 FRANCISCAN HEALTH SYSTEM, a )  
28 Washington Corporation, FDBA ST. )  
29 JOSEPH MEDICAL CENTER, )  
30 )  
31 Defendant. )  
32 )

33 COMES NOW Plaintiff, Michael G. Malaier, the Chapter 13 Standing Trustee for the above-  
34 referenced bankruptcy estate, by and through his counsel of record, Matthew J.P. Johnson, and alleges the  
35 following causes of action based upon information and belief:

Michael G. Malaier  
Chapter 13 Trustee  
1551 Broadway, Suite 600  
Tacoma, WA 98402  
(253) 572-6600

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## I. JURISDICTION

- 1.1 This action arises under Rule 7001(1) the Federal Rules of Bankruptcy Procedure, and seeks to recover estate monies held by Defendant Franciscan Health System FDBA St. Joseph Medical Center (hereinafter "Defendant") pursuant to 11 U.S.C. §542.
- 1.2. This adversary matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (F).
- 1.3. This Court enjoys jurisdiction herein pursuant to 28 U.S.C. §1334.
- 1.4 Venue for this matter resides in this Court as set forth in 28 U.S.C. §1409(a); venue is proper.

## II. PARTIES

- 2.1. Plaintiff, Michael G. Malaier, is the Chapter 13 Standing Trustee herein for the bankruptcy estate of the Debtors, Shannon and Nicole Vanderford. Plaintiff is authorized to bring these actions under 11 U.S.C. §542.
- 2.2 Defendant timely filed an unsecured claim, ECF number 5-1, seeking payment of \$995.52 on August 25, 2010.

## III. CAUSE OF ACTION UNDER 11 U.S.C. §542

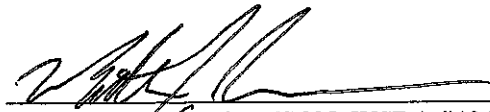
- 3.1. Plaintiff realleges the allegations set forth in paragraphs 1.1 through 2.2 and hereby incorporates them by reference.
- 3.2 Plaintiff has inadvertently overpaid Defendant by \$948.69, contrary to the terms of Debtors' confirmed Chapter 13 plan.
- 3.3 Despite numerous written requests to return said funds, Defendant has refused to return the subject funds.
- 3.4 The funds at issue constitute property of the bankruptcy estate and should be turned over to Plaintiff for administration according to law.

**WHEREFORE** having asserted his Complaint, Plaintiff prays:

Michael G. Malaier  
Chapter 13 Trustee  
1551 Broadway, Suite 600  
Tacoma, WA 98402  
(253) 572-6600

1. That Defendant be ordered to turn over to Plaintiff the sum of \$948.69;
2. For costs of initiating and prosecuting suit;
3. For such further and other relief as the court deems appropriate and just.

**DATED** this 22<sup>nd</sup> day of April, 2016.

  
MATTHEW J.P. JOHNSON, WSBA #40476  
Attorney for Plaintiff/ Chapter 13 Trustee

**PLAINTIFF'S CERTIFICATION**

I, MICHAEL G. MALAIER, duly appointed Chapter 13 Trustee and Plaintiff herein, have read the foregoing complaint with attached exhibit. I believe the facts and allegations herein complained of to be true and accurate to the best of my ability.

**SWORN** to under penalty of perjury this 22nd day of April, 2016.

  
MICHAEL G. MALAIER  
Chapter 13 Standing Trustee

Michael G. Malaier  
Chapter 13 Trustee  
1551 Broadway, Suite 600  
Tacoma, WA 98402  
(253) 572-6600